IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 12070 of 2003

Between:

The Depot Manager
A.P.S.R.T.C., Hindupur,
Ananthapur District.

..... PETITIONER

AND

1 The Industrial Tribunal cum Labour Court Rep By Its Presiding Officer
Ananthapur.
2 Syed Fakruddin E. 84048, S/o Nabirasool
C/o 8/386, Court Road., Ananthapur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records relating to I.D.No: 68/2000 on the file of the Labour Court, Ananthapur and quash its Award Dated
12-12-2002 by issuing appropriate Writ order or direction more particularly one in the nature of Writ of Certiorari.

Counsel for the Petitioner: MR.P.VINAYAKA SWAMY

Counsel for the Respondent No.1: GP FOR LABOUR counsel for THE RESPONDENT NO.2: MR. S.M. SUBHAN

The Court made the following:

ORDER:

Challenging the award passed in I.D.No.68 of 2000 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur, the Depot Managar, APSRTC, Hindupur, Ananthapur District filed the present writ petition.

The 2nd respondent herein was ordered to be removed from service of the petitioner's Corporation vide its order, dated
31-01-2000, on the allegation that he committed theft of two
gear-wheels on 04-08-1999. A regular departmental enquiry was conducted by the Corporation and the enquiry officer found that the charge levelled against the 2nd respondent herein has been proved. The disciplinary authority having accepted the enquiry report, ordered for removal of the 2nd respondent from the service of the petitioner's Corporation.

Challenging the same, the 2nd respondent approached the Industrial Tribunal-cum-Labour Court. The Labour Court upon consideration of material available on record held that the domestic enquiry is not vitiated, but on appreciation of evidence, on the principles of natural justice and beyond reasonable doubt held that misconduct has not been proved and ordered to reinstate the 2nd respondent

with continuity of service and full back wages.

Learned standing counsel appearing for the Corporation contended that without assigning any reasons, the Labour Court awarded backwages and the appreciation was not in accordance with legal principles, and therefore, prays to set aside the same.

On the other hand, the learned counsel appearing for the 2nd respondent contends that the charge levelled against the

2nd respondent has not been proved and the corollary workman is entitled for the benefits. The Labour Court, upon appreciation of the record, found that the charge was not proved. In view of the fact that two contrary versions have come on record, he prays to dismiss the writ petition.

The scope of the judicial review extends unless the findings of the Labour Court are perverse or contrary to law. Normally, this Court will not interfere with the findings recorded by the Labour Court and cannot re-appreciate the same as an appellate authority in an appeal against an order of the Labour Court. If the findings are perverse or not in accordance with law, then certainly the same can be interfered with.

As seen from the findings of the Labour Court, it is held that since two contrary versions were coming with regard to the allegation of the actual seizure of the gear-wheels from the possession of the petitioner in I.D.No.68 of 2000, it is desirable to give benefit of doubt rather than to hold that the charge has been proved. There cannot be any dispute that in the departmental proceedings, the department has to prove its case beyond preponderance of probabilities. Giving benefit of doubt arises only in case of proving the allegations beyond reasonable doubt. The allegations are required to be proved by the prosecution beyond reasonable doubt in the criminal case but not in the departmental proceedings, therefore, the question of giving benefit of doubt in the departmental proceedings does not arise. Basing on the said assumption, the Labour Court came to the

conclusion that the charge levelled against the petitioner has not been proved. Therefore, the findings are not based upon the
well-established legal principles.

The dispute relating to misconduct by the petitioner is of the year 1999. This is a case where the Labour Court is competent to re-appreciate the evidence but such re-appreciation has to be done in accordance with legal principles but that has not been done. Therefore, the findings recorded by the Labour Court are perverse. The evidence has to be appreciated basing on the principles of preponderance of probabilities but not basing on the principles of proving the allegations beyond reasonable doubt. Therefore, the findings are perverse warranting interference by this Court.

The writ petition is allowed setting aside the award of the Labour Court and remitting the matter to the Labour Court for fresh consideration, in accordance with law.

Since the matter is of the year 1999, the Tribunal shall dispose of the Industrial Dispute within a period of three months from the date of receipt of a copy of this order, after giving a reasonable opportunity to both the parties. The reinstatement order passed by the Labour Court shall be subject to result of the decision that may be passed by the Labour Court. No costs.

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K.C.BHANU, J

Dated: 07-06-2005

LSK

That Rule Nisi has been made absolute as above.

Witness the Hon’ble Sri Bilal Nazki, the Acting Chief Justice on this Tuesday the Seventh day of June Two Thousand and Five.

To

1 The Industrial Tribunal cum Labour Court Rep By Its Presiding Officer Ananthapur.

2 Two C.D. copies.

3 Two C.Cs. to the G.P. for Labour, High Court buildings, Hyderabad. (OUT)